

In the Matter of a Complaint by

FINAL DECISION

Ethics Enforcement Officer,
Office of State Ethics,

Complainant

Docket # 2008-14UL

against

Connecticut Assisted Living Association,

Respondent

April 24, 2008

The above-captioned matter was heard as a contested case on April 2, 2008, at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. It is found that by letter dated February 20, 2008, the complainant informed the respondent that the Office of State Ethics (“OSE”) had reason to believe that the respondent engaged in lobbying activity during 2007.

2. It is found that the February 20, 2008 letter also informed the respondent that the OSE “has no record” that the respondent: a) filed any registration with the OSE prior to engaging in the lobbying activity described in paragraph 1, and b) filed mandatory reports for the first, second and third/fourth quarters of 2007.

3. It is found that the February 20, 2008 letter further informed the respondent that a hearing on this matter was scheduled for April 2, 2008. It is found that the February 20, 2008 letter was accompanied by a formal Notice of Hearing, also dated February 20, 2008. Such notice was issued pursuant to the OSE’s authority and jurisdiction vested in it by General Statutes § 1-99 (b). It is found that the respondent received timely notice of the hearing in this matter.

4. It is found that the complainant alleged in the Notice of Hearing, described in paragraph 3, above, that the respondent violated: a) General Statutes §§ 1-94 and 1-95 by failing to file the required registration for 2007 (“ETH-1B”), and b) violated General Statutes §1-96 (a) by failing to file the required reports for the first, second and third/fourth quarters of 2007 (“ETH-2Ds”).

5. It is found that the issues presented are

- a) whether the respondent violated §§ 1-94 and 1-95 by failing to file the ETH-1B;
- b) whether the respondent violated § 1-96 (a) by failing to file the ETH-2Ds; and,
- c) whether the Citizen's Ethics Advisory Board ("Board") should impose a civil penalty in this matter, if it finds that the respondent violated §§ 1-94, 1-95 and 1-96 (a).

6. With respect to the first issue, described in paragraph 5a) above, § 1-94, provides, in relevant part:

A lobbyist shall register with the Office of State Ethics pursuant to this part if it or he ... (2) Makes or incurs an obligation to make expenditures of two thousand dollars or more in a calendar year for lobbying.

7. Section 1-95 further provides, in relevant part:

(a) Each registrant shall file every two years with the Office of State Ethics on a registration form signed under penalty of false statement on or before January fifteenth of odd-numbered years or prior to the commencement of lobbying whichever is later. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form....

8. Section 1-91 (q) defines "registrant" to mean a person who is required to register pursuant to § 1-94.

9. It is found that during 2007 the respondent was a "lobbyist" within the meaning of § 1-94, and a "registrant" within the meaning of § 1-95.

10. It is also found that during 2007, the respondent made, or incurred an obligation to make, expenditures of \$2000 or more for lobbying, within the meaning of § 1-94.

11. It is found that the respondent did not register with the OSE within the statutorily required time period set forth in §1-95.

12. It is therefore concluded that the respondent violated §§ 1-94 and 1-95 by failing to register, i.e., failing to file the ETH-1B.

13. With respect to the second issue, described in paragraph 5b) above, § 1-96 (a), provides, in relevant part:

Each client lobbyist registrant shall file with the Office of State Ethics between the first and tenth day of April, July and January a financial report, signed under penalty of false statement. The April and July reports shall cover its lobbying activities during the previous calendar quarter and the January report shall cover its lobbying activities during the previous two calendar quarters ... If the client lobbyist registrant is not an individual, an authorized officer or agent of the client lobbyist registrant shall sign the form....

14. It is found that during 2007 the respondent was a “client lobbyist registrant” within the meaning of § 1-96 (a).

15. It is found that the respondent did not file its first, second, and third/fourth quarter 2007 ETH-2D reports within the statutorily required time periods.

16. It is therefore concluded that the respondent violated § 1-96 (a) by failing to file its first, second, and third/fourth quarter 2007 ETH-2D reports, within the statutorily required time periods.

17. With respect to the third issue described in paragraph 5c) above, § 1-99 (b), provides, in relevant part:

[The Citizen’s Ethics Advisory Board] may, after a hearing conducted in accordance with sections 4-176e to 4-184, inclusive, upon the concurring vote of two-thirds of its members, impose a civil penalty not to exceed ten dollars per day upon any registrant who fails to file any report, statement or other information as required by this part... In no event shall the aggregate penalty imposed for such failure to file exceed ten thousand dollars.

18. It is found that the respondent eventually registered with the OSE as a client lobbyist on February 25, 2008, four hundred and six (406) days late.

19. In addition, it is found that the respondent eventually filed its first, second, and third/fourth quarter 2007 ETH-2D reports on February 26, 2008, three hundred and twenty one (321), two hundred and thirty one (231), and forty seven (47) days late, respectively.

20. It is found that § 1-99 (b) permits the Board to impose a civil penalty upon the respondent of an amount not to exceed ten dollars per day, for each of the four late

filings described in paragraphs 18 and 19, above, up to an aggregate penalty not to exceed ten thousand dollars for each late filing.

21. It is found that at a rate of ten dollars per day, the permissible civil penalty for the four late filings as described in paragraphs 18 and 19, above, is ten thousand and fifty dollars (\$10,050).

22. It is found that at the hearing in this matter the respondent requested that any civil penalty assessed be reduced because the respondent's failure to file was not intentional, and further that the imposition of a civil penalty would pose a financial hardship for the respondent.

23. It is found that the respondent's budget is \$217,000. It is also found that the respondent spent, or incurred an obligation to spend \$30,000, on lobbying.

24. Based on the facts and circumstances of this case, the Board exercises its discretion to reduce the civil penalty permitted from ten dollars (\$10) per day, for each of the four late filings, to five dollars (\$5) per day for each late filing.

The following order by the Board is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The respondent shall immediately remit to the OSE a civil penalty in the amount of five thousand and twenty five dollars (\$5025).
2. Henceforth, the respondent shall timely file its ETH-1B, and all required ETH-2D reports.

Approved by Order of the Citizen's Ethics Advisory Board at its regular meeting of April 24, 2008.

Diane P. Buxo
Acting Clerk of the Board

PURSUANT TO CONNECTICUT GENERAL STATUTES § 4-180 (c), THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE OFFICE OF STATE ETHICS, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Ethics Enforcement Officer
Office of State Ethics
18-20 Trinity Street, Suite 205
Hartford, CT 06106

Connecticut Assisted Living Association
c/o Heather Berchem
Murtha Cullina LLP
Two Whitney Avenue
New Haven, CT 06510

Diane P. Buxo
Acting Clerk of the Board